

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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JAVIER BENITEZ,

Plaintiff,

v.

CITY OF RENO, *et. al.*,

Defendants.

Case No. 3:24-CV-00088-MMD-CLB

ORDER

On February 22, 2024, Plaintiff Javier Benitez ("Benitez") initiated this action by filing an application to proceed *in forma pauperis* along with a *pro se* civil rights complaint, (ECF Nos. 3, 3-1). On March 5, 2024, this Court screened the complaint pursuant to 28 U.S.C. § 1915A, recommending: (1) the excessive force during arrest claim proceed against Defendant Frady; (2) the municipality liability claim against Defendants City of Reno and Reno Police Department be dismissed with leave to amend; and (3) the false imprisonment claim be dismissed without prejudice and without leave to amend. (ECF No. 8.) On April 2, 2024, the District Court adopted the report and recommendation, ordering that if Benitez failed to file an amended complaint within 30 days, the action would proceed on the excessive force claim against Frady, and the claims against the City of Reno and the Reno Police Department and the false imprisonment claim would be dismissed with prejudice. (ECF No. 9.) Benitez did not file an amended complaint or request an extension of time to do so.

Accordingly, **IT IS HEREBY ORDERED** that Benitez will **PROCEED** on his Fourth Amendment excessive force claim against **Defendant Reno Police Department Officer Frady #14626**.

IT IS FURTHER ORDERED that the Clerk shall **ISSUE** a summons for the above-named defendant and deliver the same to the U.S. Marshal together with a copy of the complaint, (ECF No. 10), the screening orders, (ECF Nos. 8, 9), and this order for service

1 on Defendant. The Clerk shall **SEND** to Benitez a USM-285 form. Benitez shall have until
 2 **June 10, 2024**, to complete the USM-285 service form and return to the U.S. Marshal,
 3 400 S. Virginia Street, 2nd Floor, Reno, Nevada 89501. Within 20 days after receiving
 4 from the U.S. Marshal a copy of the USM-285 form showing whether service has been
 5 accomplished, Benitez must file a notice with the Court identifying whether the defendant
 6 was served or not. If Benitez wishes to have service again attempted on an unserved
 7 defendant, then a motion must be filed with the Court identifying the unserved defendant
 8 and specifying a more detailed name and/or address for said defendant, or whether some
 9 other manner of service should be attempted.

10 Benitez is reminded that under Fed. R. Civ. P. 4(m), service must be completed
 11 within **90 days** of the date of this Order. If Benitez requires additional time to meet any of
 12 the deadlines set by the Court, he must file a motion for extension of time under Local
 13 Rule 1A 6-1 and Local Rule 26-3 that is supported by a showing of good cause. A motion
 14 filed after a deadline set by the Court or applicable rules will be denied absent a showing
 15 of excusable neglect. If Benitez fails to follow this order, the above-named defendant will
 16 be dismissed for failure to complete service of process pursuant to Fed. R. Civ. P. 4(m).

17 **IT IS FURTHER ORDERED** that henceforth, Benitez shall serve upon Defendants
 18 or, if appearance has been entered by counsel, upon the attorney(s) a copy of every
 19 pleading, motion, or other document submitted for consideration by the Court. Benitez
 20 shall include with the original paper to be filed with the Clerk of the Court a certificate
 21 stating the date that a true and correct copy of the document was mailed to the
 22 Defendants or counsel for defendants. The Court may disregard any paper received by
 23 a District Judge or a Magistrate Judge which has not been filed with the Clerk of the
 24 Court, and any paper received by a District Judge, Magistrate Judge, or Clerk of the
 25 Court which does not include a certificate of service.

26 **DATED:** May 10, 2024

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 28 **UNITED STATES MAGISTRATE JUDGE**